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OFFICE OF PETITIONS

In re Application of :
Aizawa et al. :
Application No. 09/800,670 : DECISION REFUSING STATUS
Filed: 8 March, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. Q63394 :

This is in response to the petition filed under 37 CFR 1.47(a) on 3 December, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor.

FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.
Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed as a reissue application on 8 March, 2001, without an executed oath or declaration. Accordingly, on 2 July, 2001, Initial Patent Examination Division mailed a Notice to File Missing Parts of Reissue Application requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 3 December, 2001,¹ petitioners filed a reissue declaration naming Masuo Aizawa, Yoshihito Ikariyama, Eiry Kobatake, Minoru Ogasawara, and Mitsunao Tanaka as joint

¹Since 2 December, 2001, fell on a Sunday, the response filed on 3 December, 2001, was timely filed.

inventors and signed by joint inventors Aizawa, Kobatake, Ogasawara, and Tanaka on behalf of themselves and joint inventor Ikariyama, accompanied by the petition fee, late filing surcharge, and a three (3) month extension of time.

Petitioners assert that joint inventor Ikariyama is deceased and that a letter was sent to his legal representative (widow) at her last known address, but that the letter was returned as undeliverable.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor, or legal representative thereof, cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The present petition lacks item (2).

In regards to item (2), the oath or declaration must identify the name, residence, mailing address, and citizenship of the legal representative(s) of the deceased inventor, and state that the legal representative is signing on behalf of the deceased joint inventor. A new oath or declaration in compliance with 37 CFR 1.63, 1.64, and 1.175 containing the information described in this paragraph and signed by all of the signing inventors, is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

A handwritten signature in black ink, appearing to read "D. Wood".

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy